

After a review of the complaint, the court finds plaintiff cannot “fairly and adequately

protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). Therefore, plaintiff is granted leave to file a proper amended complaint on behalf of himself only. The Court Clerk is directed to send plaintiff the court’s form for filing a proper amended complaint.

Plaintiff also requests the appointment of counsel in this action. Because he will not be permitted to proceed with a class action, the court will consider the request for appointment of counsel for plaintiff individually. Plaintiff bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court has carefully reviewed the merits of plaintiff’s claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering plaintiff’s ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

**ACCORDINGLY**, plaintiff may not proceed with this lawsuit as a class action. He is directed to file a proper amended complaint for his personal claims within fifteen (15) days. Failure to file a proper amended complaint as directed will result in dismissal of this action. Furthermore, plaintiff’s request for appointment of counsel is **DENIED**.

**IT IS SO ORDERED** this 23rd day of June 2009.

  
James H. Payne  
United States District Judge  
Eastern District of Oklahoma